

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;) CIVIL NO. CV03-00385 SOM-LEK
) (Copyright)
Plaintiff,)
) DECLARATION OF LEX R. SMITH
vs.)
)
HAWAIIAN EXPRESS SERVICE,)
INC., et al.,)
)
Defendants.)
)

DECLARATION OF LEX R. SMITH

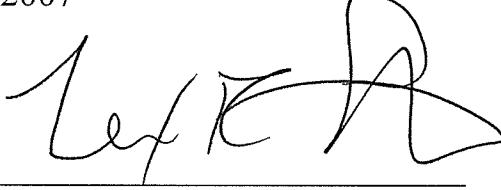
LEX R. SMITH declares as follows:

1. I am an attorney licensed to practice law before this Court and I am one of the attorneys representing C&S Logistics of Hawaii, LLC, C&S Wholesale Grocers, Inc., C&S Acquisitions, LLC, ES3, LLC and Richard Cohen in this case.
2. In late May of 2007 the Court ordered the judgment debtor examination of Wayne Berry for June 28, 2007.
3. I recently received the attached email from Mr. Berry's counsel of record indicating that Mr. Berry will not be appearing at his judgment debtor examination, on the alleged ground that service on Berry's counsel of record is inadequate. A copy is attached hereto as Exhibit "A."

4. In order to avoid further delay of this case, I respectfully urge the Court to shorten time for the hearing on the motion to compel Mr. Berry's compliance with the Court's order for judgment debtor examination, so the matter can be resolved before the scheduled June 28 date.

The foregoing is true under penalty of perjury.

DATED: Honolulu, Hawaii, June 15, 2007



LEX R. SMITH